No. 17-1107

IN THE

Supreme Court of the United States

MIKE CARPENTER, INTERIM WARDEN,
OKLAHOMA STATE PENITENTIARY,
Petitioner,

v.

PATRICK DWAYNE MURPHY,
Respondent.

On a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

BRIEF OF *AMICI CURIAE* NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER AND ADDITIONAL ADVOCACY ORGANIZATIONS FOR SURVIVORS OF DOMESTIC VIOLENCE AND ASSAULT IN SUPPORT OF RESPONDENT

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INTEREST OF THE *AMICI CURIAE*[1]

As a national organization working to end domestic violence and sexual assault against Native women and children, the National Indigenous Women's Resource Center ("NIWRC") understands the significance of the Tenth Circuit's conclusion that the Muscogee (Creek) Nation's ("Creek Nation") Reservation remains a "reservation," and therefore constitutes "Indian country," under 18 U.S.C. § 1151(a).

In reauthorizing the Violence Against Women Act in 2013 ("VAWA 2013"), Congress tethered its restoration of tribal criminal jurisdiction to lands that constitute "Indian country." VAWA, Pub. L. No. 113-4, title IX, § 904(a)(3), 127 Stat. 120 (March 7, 2013) (codified at 25 U.S.C. § 1304(a)(3)). Thus, because the lands within a Tribal Nation's borders—its "reservation"—constitute "Indian country" under § 1151, a judicial decision disestablishing a Tribal Nation's reservation would effectively preclude that Nation from fully implementing VAWA's restored tribal jurisdiction. For instance, if this Court were to declare the Creek Nation's Reservation "disestablished," the Creek Nation's ability to prosecute a non-Indian engaged in an act of domestic violence or dating violence within its territorial jurisdiction would be severely truncated.

Should this Court accept Petitioner's invitation to depart from its long-settled diminishment framework,

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[1] Pursuant to Supreme Court Rule 37.6, *Amici Curiae* state that no counsel for any party authored this brief in whole or in part and that no entity or person, aside from *Amici Curiae* and their counsel, made any monetary contribution toward the preparation or submission of this brief. On July 31, 2018, counsel for Petitioner and Respondent informed counsel for *Amici* of their consent to the filing of this *amicus* brief.

then, such a decision could preclude the Creek Nation (and potentially other Tribal Nations) from fully utilizing the jurisdiction Congress has restored. The NIWRC *Amici*, therefore, offer a unique perspective on the relationship between Congress's plenary power over Indian affairs, the inherent sovereign authority of tribal governments to prosecute crimes committed against their own citizens, and safety for Native women and children.

The leading signatory, the NIWRC, is a Native non-profit organization whose mission is to ensure the safety of Native women by protecting and preserving the inherent sovereign authority of American Indian and Alaska Native Tribes to respond to domestic violence and sexual assault. The NIWRC's Board of Directors consists of Native women leaders from Tribes across the United States. Collectively, these women have extensive experience in Tribal Courts, tribal governmental process, and programmatic and educational work to end violence against Native women and children, including domestic violence and sexual assault.

NIWRC is joined by six additional Tribal Nations that have invested significant resources, time, and effort to ensure that their prosecutions of domestic violence crimes serve to increase the safety of their tribal communities, while simultaneously working to ensure that the rights of the domestic violence defendants in tribal criminal proceedings are respected and enforced.

The Confederated Tribes of the Umatilla Indian Reservation ("CTUIR") is a union of three Tribes—Cayuse, Umatilla, and Walla Walla—located on a 172,000 acre reservation in Oregon. Similar to the Creek Nation, the Umatilla Indian Reservation was

subject to allotment and is heavily allotted. The CTUIR has more than 3,100 members, nearly half of whom live on the reservation alongside approximately 1,500 non-Indians. The CTUIR was the first Tribe in the nation, and the second jurisdiction in the country, after the State of Ohio, to implement the Adam Walsh Act in 2009. In March of 2011, the CTUIR implemented felony sentencing under the Tribal Law and Order Act of 2010 and has since prosecuted numerous felony cases. In July of 2013, the CTUIR implemented all necessary provisions of VAWA § 904's special domestic violence criminal jurisdiction ("SDVCJ"), and was approved by the United States for early exercise of that authority in February of 2014. Since implementing § 904 of VAWA, the CTUIR has prosecuted SDVCJ cases for acts of domestic violence committed by non-Indians against Indian women on the Umatilla Indian Reservation while according those defendants the full panoply of protections called for under VAWA.

The Eastern Band of Cherokee Indians is an Indian Nation located in the mountains of Western North Carolina comprised of the descendants of Cherokees who avoided forced removal along the Trail of Tears, or returned from the Indian Territory after the march. About 8,500 Eastern Band Cherokees live on the Eastern Band Cherokee Reservation. On June 15, 2015, the Eastern Band implemented VAWA's § 904's SDVCJ.

The Nottawaseppi Huron Band of the Potawatomi ("NHBP" or the "Tribe") is a federally-recognized American Indian Tribe with more than 1,400 enrolled Tribal Members. The Tribe's Health Center serves tribal citizens, non-NHBP citizen Indians/descendants of other federally-recognized Indian Tribes, and employees who are not tribal citizens and their dependents.

NHBP exercises jurisdiction over Reservation lands upon which the tribal government facilities, residential housing, parks/recreation facilities, and various economic enterprises are found, all within the borders of what is now called the State of Michigan. The Tribe currently prosecutes crimes of domestic violence under the Nottawaseppi Huron Band of Potawatomi Indians Law and Order Code. NHBP has participated in the Intertribal Technical-Assistance Working Group ("ITWG") on Special Domestic Violence Criminal Jurisdiction since its inception and has now implemented VAWA § 904's restored criminal jurisdiction.

The Pascua Yaqui Tribe ("PYT") is a sovereign Tribal Nation and was among the first three Tribal Nations to exercise enhanced jurisdiction under VAWA § 904. The PYT's reservation consists of 2,200 acres situated approximately 10 miles southwest of Tucson, Arizona.

The Pokagon Band of Potawatomi Indians ("Pokagon Band") is a sovereign federally-recognized Indian Tribe with approximately 5,600 enrolled tribal citizens and a ten county service area that includes four counties in Michigan and six counties in Indiana. The Pokagon Band has trust land in Michigan and Indiana and prosecutes crimes of domestic violence under the Pokagon Band's Code of Offenses. The Pokagon Band has participated in the ITWG since the inaugural meeting and intends to implement VAWA's § 904 restored special domestic violence criminal jurisdiction.

NIWRC is also joined by sixty additional organizations that share NIWRC's commitment to ending domestic violence, rape, sexual assault, and other forms of violence in the United States (collectively, the

"NIWRC *Amici*").[2] The depth of the NIWRC *Amici*'s experience in working to end domestic violence renders them uniquely positioned to offer their views on the need for an interpretation of "reservation" and "Indian country" under 18 U.S.C. § 1151(a) that ensures Tribal Nations may continue to exercise VAWA's restored criminal jurisdiction to protect all Native women within their borders as envisioned by Congress.

Because Petitioner's attempt to have the Creek Nation's Reservation judicially declared "disestablished" threatens the safety, welfare, and lives of Native women, the NIWRC *Amici* urge this Court to affirm the Tenth Circuit's conclusion that until or unless Congress does in fact disestablish the Creek Nation's Reservation, the Nation's lands will continue to constitute a "reservation" under 18 U.S.C. § 1151(a).

SUMMARY OF THE ARGUMENT

Today, Native women face the highest rates of domestic violence, murder, and sexual assault in the United States. The majority of these crimes are committed by non-Indians. But since 1978, Tribal Nations have lost the authority to exercise their inherent jurisdiction and prosecute crimes committed by non-Indians on tribal lands. *See Oliphant v. Suquamish*, 435 U.S. 191 (1978). Recently in 2013, however, Congress exercised its authority over Indian affairs and restored Tribes' criminal jurisdiction over non-Indians who abuse Native people on tribal lands.

In 2013, with the knowledge of the extraordinarily high rates of violence perpetrated against Native women, and with the understanding that such violence

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[2] The additional NIWRC *Amici* are identified and listed in the Appendix to this brief.

threatens the continued sovereignty and existence of Tribal Nations, Congress reauthorized VAWA to include an amendment that restores tribal jurisdiction over domestic violence crimes committed by non-Indians (referred to as "special domestic violence criminal jurisdiction" or "SDVCJ"). Pub. L. No. 113-4, 127 Stat. 120 (March 7, 2013) (codified at 25 U.S.C. § 1304).[3]

Congress rendered this restored jurisdiction contingent upon two words: "Indian country." That is, in reauthorizing VAWA, Congress restored tribal jurisdiction over "[a]n act of domestic violence or dating violence that occurs in the *Indian country* of the participating tribe." 25 U.S.C. § 1304(c)(1) (emphasis added). VAWA 2013 states that its use of "[t]he term 'Indian country' has the meaning given . . . in section 1151 of title 18." 25 U.S.C. § 1304(a)(3).

Since the passage of 18 U.S.C. § 1151 in 1948, "Indian country" has consistently referred to lands that include and/or comprise a Tribal Nation's "reservation." Congress took no action to disestablish the Creek Nation Reservation prior to crafting the legal term "Indian country" in 1948, and it has taken no such action since. The State of Oklahoma, however, now asks this Court to conclude that the "territorial boundaries of the Creek Nation no longer constitute an 'Indian reservation' today under 18 U.S.C. § 1151(a)"—even though all parties, including Oklahoma—acknowledge that Congress has

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[3] *See, e.g.*, 159 Cong. Rec. S504 (daily. ed. Feb. 7, 2013) (statement from Sen. Mazie Hirono) ("Specifically, I am concerned about the high instances of domestic violence in Indian Country. I am pleased that S. 47 [VAWA] includes language to provide tribal governments the force they need to prosecute non-Indian perpetrators who commit these crimes on tribal land.").

never taken legislative action to formally disestablish the Creek Nation's Reservation.

Oklahoma instead encourages this Court to disregard the test outlined in *Solem v. Bartlett*, 465 U.S. 463 (1984), and judicially declare the Creek Nation's Reservation obsolete based on arguments and considerations previously rejected in *Solem*. Circumventing *Solem* in this manner, however, would undermine Congress's exclusive authority over the status of reservations, and would ultimately impede Congress's ability to pass legislation in reliance on "Indian country" as defined in § 1151(a).[4]

To be sure, Oklahoma's suggested departure from *Solem* was not the "Indian country" standard intended by Congress when it reauthorized VAWA in 2013. *See* 18 U.S.C. § 1151(a) (Indian Country includes "all land within the limits of any Indian reservation."). When Congress restored a portion of tribal criminal jurisdiction through VAWA § 904, this Court's conclusion in *United States v. Celestine*—that Congress, and only Congress, can disestablish a reservation—controlled;

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[4] As this Court has repeatedly recognized, "the Constitution grants Congress broad general powers to legislate in respect to Indian tribes, powers that [][this Court has] consistently described as 'plenary and exclusive.'" *United States v. Lara*, 541 U.S. 193, 200 (2004) (internal quotation marks and citations omitted); *see also United States v. Mazurie*, 419 U.S. 544, 554 n.11 (1975) (describing Congress's authority regarding Indian affairs as "exclusive"). This Court has likewise recognized Congress's authority over questions of criminal law on tribal lands. *See United States v. Kagama*, 118 U.S. 375, 383 (1886) (affirming that Congress has the authority to "define[] a crime committed" on tribal lands). This Court has consistently upheld the exclusive authority of Congress to legislate as to the legal status of tribal lands and the inherent right of Tribal Nations to exercise jurisdiction over them.

a precedent that has existed since 1909. *See United States v. Celestine*, 215 U.S. 278, 285 (1909) ("[W]hen Congress has once established a reservation, all tracts included within it remain a part of the reservation until separated therefrom by Congress."). Oklahoma has presented no compelling reason to discard decades of solid precedent. There are none.

To conclude otherwise would undermine Congress's ability to effectuate its trust duties and obligations to Tribal Nations. Congress has repeatedly recognized the connection between tribal sovereignty and safety for Native women as the foundation for the federal government's "trust responsibility to assist tribal governments in safeguarding the lives of Indian women." Violence Against Women and Dep't of Justice Reauthorization Act of 2005 ("VAWA 2005"), Pub. L. No. 109–162, § 901(6), 119 Stat. 3078.

Accordingly, the NIWRC *Amici* agree fully with Respondent and the Creek Nation that (1) this Court's decision in *Solem* controls; and (2) a simple application of this Court's precedent in *Solem* results in affirmance of the Tenth Circuit's conclusion that the Creek Nation's Reservation has never been legislatively disestablished. *See Nebraska v. Parker*, 136 S. Ct. 1072, 1078-79 (2016) ("As with any other question of statutory interpretation," the actual legislative text is "the most 'probative evidence'" of such intent.) (citing *Solem*, 465 U.S. at 470).

Furthermore, because Congress rendered the exercise of VAWA's restored jurisdiction contingent upon "Indian country," any judicial disestablishment of an Indian reservation would significantly endanger the ability of Tribal Nations to exercise this restored jurisdiction and protect their women from domestic violence crimes committed by non-Indians. Many

Tribal Nations have reservations that Congress has never formally disestablished; indeed, many reservations have survived Allotment and Statehood acts,[5] and if those reservations are suddenly at risk of being removed from the category of lands that constitute "Indian country" under § 1151(a) without congressional action, many Tribal Nations could be precluded from exercising VAWA § 904's restored criminal jurisdiction over crimes committed by non-Indian offenders. Such a conclusion would undermine Congress's intent in restoring the inherent right of Tribal Nations to ensure the safety of their women and children citizens living within their borders.

This is not what Congress intended. Instead, when Congress utilized "Indian country" in VAWA 2013 to restore tribal jurisdiction on tribal lands, Congress "recogni[zed] that tribal nations may be best able to address violence in their own communities." S. Rep. No. 112-153, at 32 (2012). But if this Court were to adopt Oklahoma's argument and discard *Solem*'s adherence to Congress's exclusive authority over the

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[5] Courts have repeatedly determined that various reservations survived both statehood and the Allotment Acts, regardless of the chronology of statehood in relation to the Allotment Acts Congress passed from 1878 to 1906. *See, e.g., Solem v. Bartlett*, 465 U.S. 463 (1984) (concluding that the Cheyenne River Sioux Reservation has not been disestablished); *Nebraska v. Parker*, 136 S. Ct. 1072 (2016) (concluding that the Omaha Reservation has not been disestablished); *Duncan Energy Co. v. Three Affiliated Tribes of Ft. Berthold Reservation*, 27 F.3d 1294 (8th Cir. 1994) (concluding that the Three Affiliated Tribes of Ft. Berthold Reservation has not been diminished); *United States v. Webb*, 219 F.3d 1127 (9th Cir. 2000) (concluding that the Nez Perce Reservation has not been disestablished or diminished); *United States v. Jackson*, 853 F.3d 436 (8th Cir. 2017) (concluding that the Red Lake Reservation has not been diminished).

disestablishment of reservations, VAWA § 904's reference to "Indian country" would have a much narrower application now, in 2018, than it did when Congress reauthorized VAWA in 2013. Such a conclusion would undermine Congress's carefully crafted remedy enacted in VAWA, and ultimately, would bring dire consequences to Native women and the Tribal Nations who seek to protect them.

ARGUMENT

I. The Current Rates of Violence Against Native Women Constitute A Crisis.

Today Native people, and especially Native women, experience some of the highest rates of violent victimization in the United States.[6] Multiple federal reports have confirmed this reality, and both Congress and the federal courts have acknowledged this disparity.[7] That is, Native women face the highest rates of domestic violence and sexual assault in the United States.[8]

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[6] *See, e.g.* Andre B. Rosay, Nat'l Inst. of Justice, Office of Justice Programs, U.S. Dep't of Justice, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings From the National Intimate Partner and Sexual Violence Survey* 44 (2016), https://www.ncjrs.gov/pdffiles1/nij/249736.pdf.

[7] Congress has also noted these statistics in Findings and Purposes sections of both the Tribal Law and Order Act (124 Stat. 2258) and the 2013 reauthorization of the Violence Against Women Act (Pub. L. No. 113-4, title IX, § 901, 127 Stat. 120). The Executive Branch has acknowledged these data through signing statements, including the reauthorization of the Violence Against Women Act. This data has also been cited in the federal courts. *See, e.g., United States v. Bryant*, 136 S. Ct. 1954, 1959 (2016).

[8] Nat'l Inst. Of Justice, U.S. Dep't Of Justice, *Full Report Of The Prevalence, Incidence, And Consequences Of Violence Against Women: Findings From The National Violence Against Women Survey* iv (2000), https://www.ncjrs.gov/

Native children also experience higher-than-average rates of abuse.[9] The trauma in tribal communities is so significant that Native youth suffer Post-Traumatic Stress Disorder ("PTSD") at rates equivalent to soldiers returning from the wars in Afghanistan and Iraq.[10]

The most recent reports from the National Institute of Justice include facts that are sufficiently stunning as to be almost incomprehensible. They conclude that more than 4 in 5 Native people have been victims of

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pdffiles1/nij/183781.pdf ("American Indian/Alaska Native women and men report more violent victimization than do women and men of other racial backgrounds . . .").

[9] Att'y Gen.'s Advisory Comm. On American Indian/ Alaska Native Children Exposed to Violence, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Dep't of Justice, *Ending Violence So Children Can Thrive* 6 (2014), https://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2014/11/18/finalaianreport.pdf ("American Indian and Alaska Native children suffer exposure to violence at rates higher than any other race in the United States.").

[10] *Id.* at 38, ("[O]ne report noted that AI/AN juveniles experience post- traumatic stress disorder (PTSD) at a rate of 22 percent. Sadly, this is the same rate as veterans returning from Iraq and Afghanistan, and triple the rate of the general population.").

violence.[11] Over half (56.1%) of Native women report being victims of sexual violence.[12] Moreover, of all American Indians who have suffered violence, around ninety percent have experienced violence perpetrated by a non-Indian.[13]

The high rates of violence against Native women and children is nothing short of an emergency that threatens the future of Tribal Nations. Widespread, commonplace sexual and domestic violence have taken a toll on Native communities, leaving nations of people that suffer from unspeakable levels of trauma which in turn leads to high rates of maladies such as mental illness, addiction, and even physical ailments such as chronic heart, lung, and liver disease.[14] Victimization, and the unresolved trauma that follows, are directly linked to significant disparities in both mental and physical health.[15] Native women and children also suffer from this high rate of violence in urban areas. For example, a recent study of Native women in

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[11] Rosay, *supra* note 6 at 43-44.

[12] *Id.* at 43.

[13] *Id.* at 46 (Violence is defined as "psychological aggression by intimate partners," "physical violence by intimate partners," stalking, or "sexual violence.").

[14] *See* Jitender Sareen et al., *Physical and Mental Comorbidity, Disability, and Suicidal Behavior Associated With Posttraumatic Stress Disorder in a Large Community Sample*, 69 Psychosomatic Med. 242, 244-45 (2007).

[15] *See* J. Douglas Bremner et al., *Structural and Functional Plasticity of the Human Brain in Posttraumatic Stress Disorder*, 167 Progress in Brain Research 2 (2008), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3226705/.

Seattle found that ninety-four percent of Native women surveyed had experienced sexual violence.[16]

As detailed below, Congress has found that the inability of Tribal Nations to prosecute the non-Indians who commit violent crimes against tribal citizens has contributed significantly to the incredibly high levels of violence against Native women on tribal lands today. Although violence against Native women and children traces its roots to the origins of colonial conquest, its continued cultural acceptance is made possible by a legal framework that prevents Tribal Nations from prosecuting a majority of the crimes committed against their women and children.

II. Congress Responded To This Crisis By Restoring Tribal Jurisdiction Over Non-Indian Perpetrated Domestic Violence Crimes In "Indian country."

> *A Nation's character and very survival depend on safeguarding all its people, including the half who are women. The restoration of tribal governments' jurisdictional authority in VAWA 2013 reflects a contemporary Congress committed to removing impediments to the safety of Native women and the jurisdictional security of Native Nations. As our Cheyenne People (Tsistsistas) were instructed long ago: The*

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[16] Urban Indian Health Inst., *Our Bodies, Our Stories: Sexual Violence Against Native Women In Seattle, WA* 4 (2018), www.uihi.org/wp-content/uploads/2018/08/UIHI_sexual-violence_r601_pagesFINAL.pdf.

> *Nation shall be strong, so long as the hearts of the women are not on the ground.*
>
> **Suzan Shown Harjo (Cheyenne & Hodulgee Muscogee), Presidential Medal of Freedom Recipient.**[17]

In 2013, in direct response to this crisis, Congress restored the criminal jurisdiction of Tribal Nations to arrest and prosecute non-Indians who commit crimes of domestic violence, dating violence, or violations of protective orders on tribal lands. *See* 25 U.S.C. § 1304(c). The incredibly high rates of violence perpetrated against Native women focused front and center in both the Senate and House discussions surrounding the 2012-2013 reauthorization of VAWA. For instance, the majority report for the Senate Committee on the Judiciary acknowledged that:

> Another significant focus of this reauthorization of VAWA is the crisis of violence against women in tribal communities. These women face rates of domestic violence and sexual assault far higher than the national average. A regional survey conducted by University of Oklahoma researchers showed that nearly three out of five Native American women had been assaulted by their spouses or intimate partners, and a nationwide survey found that one third of all American Indian women will be raped during their lifetimes. A study funded by the National Institute of Justice found that, on some reservations, Native

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[17] Interview with Suzan Shown Harjo, Executive Director, Morning Star Institute, citizen of Cheyenne and Arapaho Tribes (August 13, 2018).

> American women are murdered at a rate more than ten times the national average.

S. Rep. No. 112-153, at 7-8 (2012).[18]

Congress further identified the loss of tribal criminal jurisdiction over non-Indian crimes on tribal lands as a major contributing factor to these incredibly high rates of violence, stating that "[u]nfortunately, much of the violence against Indian women is perpetrated by non-Indian men. According to Census Bureau data, well over 50 percent of all Native American women are married to non-Indian men, and thousands of others are in intimate relationships with non-Indians." *Id.* at 9. Or, as Senator Tom Udall explained:

> Here is the problem: Tribal governments are unable to prosecute non-Indians for domestic violence crimes. They have no authority over these crimes against Native American spouses or partners within their own tribal lands. . . .
>
> Non-Indian perpetrators often go unpunished. Yet over 50 percent of Native women are married to non-Indians, and 76 percent of the overall population living on tribal lands is non-Indian.

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[18] After Congress passed VAWA 2013, the author of the Senate Committee on the Judiciary Report, Sen. Patrick Leahy, acknowledged that "[t]his could not have been done without the leadership and commitment of Senator Crapo and Senator Murkowski, who fought . . . to preserve a fully inclusive reauthorization . . . . In the House, Congressman Tom Cole was a critical voice in calling for the particularly urgent need to address abuse on tribal lands." *Violence Against Women Act Anniversary*, 160 Cong. Rec. S1374 (daily ed. Mar. 10, 2014) (statement of Sen. Patrick Leahy acknowledging bipartisan efforts to restore tribal jurisdiction over non-Indians who commit acts of domestic or dating violence).

> The result is an escalating cycle of violence. On some tribal lands, the homicide rate for Native women is up to 10 times the national average-10 times the national average. . . .
>
> Native women should not be abandoned to a jurisdictional loophole. In effect, these women are living in a prosecution-free zone. The tribal provisions in VAWA will provide a remedy.

159 Cong. Rec. S488 (daily ed. February 7, 2013) (statement of Sen. Tom Udall).

And in the House, Representative Tom Cole noted that Native women, "in many ways [are] the most at-risk part of our population. One in three Native American women will be sexually assaulted in the course of her lifetime. The statistics on the failure to prosecute and hold accountable the perpetrators of those crimes are simply stunning." 159 Cong. Rec. H678-79 (daily ed. Feb. 27, 2013). Representative Sheila Jackson Lee of Texas noted that:

> VAWA Reauthorization closes jurisdictional loopholes to ensure that those who commit domestic violence in Indian country do not escape justice. The bill addresses a gaping jurisdictional hole by giving tribal courts concurrent jurisdiction over Indian and non-Indian defendants who commit domestic violence offenses against an Indian in Indian country.

159 Cong. Rec. E217-03, E218 (daily ed. Feb. 28, 2013) (statement of Rep. Jackson Lee).

In addressing the serious jurisdictional problem in Indian country, Congress explicitly discussed and

referred to *Oliphant* as the constitutional basis for Congress's authority to restore tribal criminal jurisdiction. Representative Gwen Moore of Wisconsin noted that the *Oliphant* Court held "specifically that 'the Constitution authorizes Congress to permit tribes, as an exercise of their inherent tribal authority, to prosecute nonmember Indians.'" 159 Cong. Rec. H737 (daily ed. Feb. 28, 2013) (statement of Gwen Moore referencing Responses To Questions For The Record Of Thomas Perrelli, Assoc. Att'y Gen.) (quoting *Oliphant*, 435 U.S. at 210); *see also* S. Rep. 112-153, at 213 (March 12, 2012) (statement of Senate Comm. on the Judiciary Majority) ("[T]he Supreme Court has indicated that Congress has the power to recognize and thus restore tribes' 'inherent power' to exercise criminal jurisdiction over all Indians and non-Indians. In *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978), the Court suggested that Congress has the constitutional authority to decide whether Indian tribes should be authorized to try and to punish non-Indians.") (citing 435 U.S. at 206–12).

Accordingly, with the aforementioned facts and analysis in mind, in 2013, Congress restored tribal criminal jurisdiction over:

> [V]iolence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic- or family- violence laws of an Indian tribe that has jurisdiction over the Indian country where the violence occurs.

25 U.S.C. § 1304(a)(2); *see also* VAWA, Pub. L. No. 113-4, § 904(b)(1) (stating that "the powers of self-

government of a participating tribe include the inherent power of that tribe, which is hereby recognized and affirmed, to exercise special domestic violence criminal jurisdiction over all persons").[19]

This restoration of tribal criminal jurisdiction over a specific category of non-Indian crimes arose from a "recogni[tion] that tribal nations may be best able to address violence in their own communities." S. Rep. No. 112-153, at 32. But Congress could not restore this jurisdiction by merely defining the categories of covered crimes alone. Because of the complicated history and framework surrounding the intersections of criminal jurisdiction and tribal law, Congress took great care to define precisely *where* tribal criminal jurisdiction over non-Indian domestic violence offenders would be restored.

Congress defined the "where" to be "Indian country," as previously defined in 18 U.S.C. § 1151, "Indian country defined." VAWA § 904(a)(3) states that "[t]he term 'Indian country' has the meaning given the term in section 1151 of Title 18." 25 U.S.C. § 1304(a)(3); *see also* S. Rep. No. 112-153, at 9 (noting that § 904 jurisdiction "covers those offenses when they occur in *Indian country* . . . .") (emphasis added); S. Rep. 112-

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[19] The constitutional authority of Congress to restore tribal criminal jurisdiction over non-tribal citizens was not only confirmed in this Court's decision in *Oliphant*, but also more recently in *United States v. Lara*. *See United States v. Lara*, 541 U.S. 193, 210 (2004) (holding that "the Constitution authorizes Congress to permit tribes, as an exercise of their inherent tribal authority, to prosecute nonmember Indians"); *see also* S. Rep. No. 112-153, at 213 n.23 (2012) ("[T]he Supreme Court has indicated that Congress has the power to recognize and thus restore tribes' 'inherent power' to exercise criminal jurisdiction over all Indians and non-Indians.") (citing *United States v. Lara*, 541 U.S. 193 (2004)).

153, at 10 (stating that "this jurisdictional expansion is narrowly crafted and satisfies a clearly identified need").

Congress selected the term "Indian country" to demarcate where a Tribal Nation could and could not exercise VAWA's restored jurisdiction because "Indian country" is a term that has "a precise meaning under Title 18 of the U.S. Code." 159 Cong. Rec. H795 (daily ed. Feb. 28, 2013) (statement of Rep. Hastings).

Thus, although Congress made clear that VAWA's restored tribal jurisdiction "would not cover off-reservation crimes," *id.* at H738, Congress selected the legal term "Indian country" to be sure that VAWA 2013 would restore tribal jurisdiction over domestic violence crimes occurring on "all private lands and rights-of-way within the limits of *every Indian reservation*." *Id.* at H795 (statement of Rep. Hastings) (emphasis added).

If this Court were to adopt Oklahoma's argument and discard *Solem*'s adherence to Congress's exclusive authority over the disestablishment of reservations, VAWA § 904's reference to "Indian country" would have a much narrower application now, in 2018, than it did when Congress reauthorized VAWA in 2013. Such a conclusion would undermine Congress's constitutional authority over Indian affairs, and ultimately, would bring dire consequences to Native women and the Tribal Nations who seek to protect them.

III. Tribes Are Successfully Implementing VAWA § 904 Across "Indian country" To Protect Native Women From Non-Indian Perpetrated Violence.

To date, at least nineteen Tribal Nations have implemented VAWA § 904's restored tribal criminal jurisdiction and now arrest and prosecute non-Indians who commit domestic violence crimes within their respective "Indian country" reservation boundaries.

A. The Creek Nation Was One Of The First Tribes To Implement VAWA § 904.

> *Ignorance about the feminine role obscures an understanding of half the Creek traditional culture . . . . Without the male force of the fire, life would be weak and blind; but without the earth mother, the water spirit, and the corn woman, all varying forms of the female principle, the stirring of life itself would not be possible. . . . Feminine power is enormous in the Creek view of life . . . .*
>
> **Jean Chaudhuri (Muscogee (Creek) Nation), *A Sacred Path: The Way of the Muscogee Creeks* 48-50 (2001).**

The Creek Nation's 2016 implementation of VAWA's restored jurisdiction is deeply rooted in Creek culture, law, and tradition. The Creek Nation, like many Tribal Nations, has long understood the inherent connection between sovereignty and safety for women.

In the early 1800s, prior to the Creek Nation's forced removal, non-Indian desire for Creek land resulted in

high levels of violence against Creek Nation citizens.[20] As a result, the Creek Nation understood that in order to protect its women and children from such violence, the Nation must exercise its inherent criminal jurisdiction over all perpetrators of violence on Creek lands, including non-Indians.

The Creek Nation, therefore, enacted a series of laws and exercised jurisdiction over non-Indians who engaged in conduct that harmed Creek women—and ultimately, threatened the sovereignty of the Creek Nation. For instance, in 1818, the Creek Nation passed legislation that created legal protections for Creek women who married non-Native men.[21] The law stated: "Should a White man take an Indian woman as a wife and have children by her and he goes out of the Nation he shall leave all his property with his children for their support."[22]

The Creek Nation also has a long history of prosecuting crimes of domestic violence and sexual assault, particularly where women and children are victims. In the early 1800s, long before Oklahoma came into existence, the Creek Nation codified its laws outlawing rape and sexual assault against women on Creek

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[20] Tribal leaders spoke out about these abuses; for instance, in 1764, a Creek leader formally complained to the British that white men were engaged in the sexual exploitation of Native women. *See* Sharon Block, *Rape and Sexual Power in Early America* 3 (2006).

[21] *Laws Of The Creek Nation* (Antonio J. Waring ed., Athens: U. of Ga. Press, 1960). For the original 1818 document, which is part of the D.B. Mitchell papers held by the Newberry Library, *see* David Brydie Mitchell Papers, 1777–1843, bulk 1807-1822, ARCHIVEGRID, https://beta.worldcat.org/archivegrid/collection/data/38867180 [https://perma.cc/ DJ3J-3RMB].

[22] *Laws of the Creek Nation* 120 (Antonio J. Waring ed.).

Nation lands. These written laws were not limited to Creek Nation citizens alone; thus, if a person raped a woman on Creek Nation lands—regardless of whether that person was Indian or not—the Creek Nation had authority to arrest and prosecute the individual who committed the crime. The resulting Muscogee law read:

> And be it farther enacted if any person or persons should under take to force a woman and did it by force, it shall be left to the woman what punishment she Should [be] satisfied with to whip or pay what she say it be law.[23]

As indicated by the use of the term "person" to refer to offenders, as opposed to "citizen," "Indian," or "Native," the law's application was not limited to Muscogee citizens or American Indians. Moreover, the Muscogee law demonstrates a sharp distinction between Anglo-American rape laws in that the victim was to be consulted regarding the proper punishment for the perpetrator who committed the crime against her. No state or federal law during that same time period allowed a woman to participate in the legal system to fashion a remedy for the violent crime she endured.

Following forced removal to Indian Territory, the Creek Nation reconstituted its national and local governments and justice systems, rekindled its ceremonial fires, and continued its efforts to protect citizens from violence. After the Civil War, the Creek Nation ratified a Constitution in 1867, which created six districts within the Reservation itself, extending to the external borders of the 1866 treaty. Well into the late 19th century, the Creek Nation criminal courts maintained a healthy criminal docket, which included

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[23] *Id.*

prosecutions for rape, battery, and other violent crimes.[24]

In 2016, the National Council of the Creek Nation passed NCA Bill 16-038 (the Protection from Domestic and Family Violence Act, "PDFVA"), to "offer victims the maximum protection from further violence that the law can provide." Section 3-102(A). The PDFVA constitutes a comprehensive 67-page law that includes provisions implementing VAWA § 904's restored criminal jurisdiction. The legislative history embedded within the bill indicates that the Creek Nation had been working on the legislation for two years prior to enactment.[25]

To restore its inherent jurisdiction over non-Indian perpetrated domestic violence crimes, and pursuant to VAWA § 904, the Creek Nation defined the scope of its restored "Indian country" jurisdiction as extending throughout its 1866 Treaty reservation boundary. *See* Title 27, Sec. 1-102 of the Muscogee (Creek) Nation Code of Laws. Specifically, the PDFVA states that the Creek Nation's restored jurisdiction "shall extend to all the territory defined in the 1866 Treaty with the United States." *Id.*

Thus, the PDFVA itself, facilitated by VAWA and anticipated by Congress, contemplates a comprehensive reach of territorial jurisdiction, meaning that the

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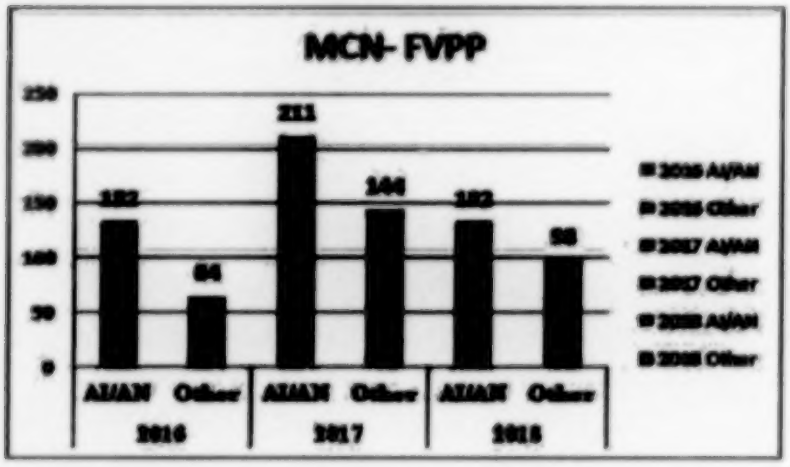
[24] Documents from the Creek Nation courts in the late 19th century were transcribed and codified in 2005. Known collectively as the Mvskoke Law Reporter (Mvskoke Vhakv Oh-Kerkuecv), volumes 5-7 include Creek Nation District Court and the Creek Nation Supreme Court decisions starting in 1870. This Reporter indicates that murder, rape, and assault were prosecuted in all districts.

[25] *See* Sec. 1(D).

Creek Nation has, in its implementation of VAWA 2013, defined VAWA's reference to § 1151's "Indian country" as including the entirety of the Creek Nation's Reservation—a reservation that has never been disestablished by Congress.

Today, Creek Nation's Family Violence Prevention Program ("FVPP") offers services to all Indians and non-Indians living within the Creek Nation's Reservation borders. As the below chart demonstrates,[26] the Creek Nation provides significant assistance to Indian and non-Indian survivors of domestic violence living within the Creek Nation's Reservation borders. For instance, so far in 2018, non-Indians comprise 42.6% of the domestic violence and sexual assault survivors who have received assistance from the Creek Nation FVPP on the Creek Nation Reservation.



[26] Muscogee (Creek) Nation, Family Violence Prevention Program MCN-FVP Chart, *available at*: http://www.mcn-nsn.gov/wp-content/ uploads/ 2018/09/FVPP-Chart-served.png

B. Other Tribal Nations Have Implemented VAWA § 904 With Great Success Throughout "Indian country."

The Pascua Yaqui Tribe ("PYT") was among the first three Tribal Nations to exercise enhanced jurisdiction under VAWA § 904. The PYT has had great success in exercising its restored inherent authority to protect Native women within the Tribe's reservation border, or its slice of "Indian country." The PYT's reservation consists of 2,200 acres situated approximately ten miles southwest of Tucson, Arizona.[27] Indeed, 15% to 25% of the PYT's criminal domestic violence docket consist of cases arising under the restored jurisdiction in VAWA 2013.[28] As of March 2018, there have been forty VAWA 2013-related arrests.[29] The PYT Tribal Courts have taken significant initiative in implementing VAWA with a law enforcement staff of more than twenty-five officers, a newly improved Victim Services Program, and a staff of eight defense attorneys who represent Indian and non-Indian defendants. The majority of VAWA 2013 defendants are in support programs and all are able to access resources made available through the Pascua Yaqui Pre-Trial Services Division.[30] In 2017, the first jury trial conviction of a

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[27] National Congress of American Indians (NCAI), *VAWA 2013's Special Domestic Violence Criminal Jurisdiction Five-Year Report* 42 (March 20, 2018), http://www.ncai.org/resou rces/ncai-publications/SDVCJ_5_Year_Report.pdf.

[28] *See id.*

[29] *See id.*

[30] *See* Alfred Urbina & Melissa Tatum, *Considerations In Implementing VAWA's Special Domestic Violence Criminal Jurisdiction And TLOA's Enhanced Sentencing Authority: A Look At The Experience Of The Pascua Yaqui Tribe* 11 (Oct. 2014),

non-Indian defendant under VAWA § 904 occurred in the Tribal Court before a diverse jury representative of the combined Pascua Yaqui citizen and non-Indian community.[31]

The Tulalip Tribes ("Tulalip Tribe"), located west of Marysville, Washington sits on a 22,000 acre reservation, of which only 12,500 acres are held in federal trust status. Roughly 76% of the Tulalip Tribe's total reservation population is non-Indian.[32] On February 20, 2014, the Tulalip Tribe implemented VAWA's restored criminal jurisdiction as one of the first three Pilot Project Tribes. The Tulalip Court operates a separate Domestic Violence Court docket where non-Indian domestic violence cases are handled, along with a specialized prosecutor and Tribal Court Public Defense Clinic in partnership with the University of Washington. Since 2014 implementation, the Tulalip Tribe has had twenty-five VAWA 2013-related arrests with sixteen convictions.[33] All defendants are required to undergo Tribe-sponsored batterer intervention programs.

The Confederated Tribes of the Umatilla Indian Reservation ("CTUIR"), located in Eastern Oregon, has a 172,000-acre reservation as well as various treaty-fishing sites held in trust along the Columbia

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http://www.ncai.org/tribal-vawa/getting-started/Practical_Guide_to_Implementing_VAWA_TLOA_letter_revision_3.pdf

[31] See PR Newswire, *Conviction In Indian Country Prosecuted At Tucson, Arizona's Pascua Yaqui Tribal Court* (May 2017), https://www.prnewswire.com/news-releases/first-non-indian-jury-trial-conviction-in-indian-country-prosecuted-at-tucson-arizonas-pascua-yaqui-tribal-court-300462521.html

[32] *See* NCAI, *supra* note 27, at 44.

[33] *Id.*

River that constitute its "Indian country."[34] It also is among the first three Tribes to implement VAWA 2013 and received early authorization to exercise enhanced jurisdiction on February 20, 2014, along with the PYT and the Tulalip Tribe.[35] Since implementation, the CTUIR has made over thirteen arrests with eight convictions.[36] After 2006, and before VAWA 2013 implementation in 2014, there were only two non-Indian domestic violence cases committed against CTUIR citizens that were reported to police and prosecuted by the United States. Implementation has not only increased prosecutions, it has increased the reporting of non-Indian domestic violence crimes by Indian victims as victims learn that reporting crimes will now result in arrests and prosecutions. VAWA 2013 crimes represent about 27% of all domestic violence criminal cases at CTUIR. All defendants undergo a tribally-run batterer intervention program.

As another example, the Eastern Band of Cherokee Indians ("EBCI"), located in the Great Smokey Mountains in western North Carolina, exercises jurisdiction throughout its portion of "Indian country" on its 57,000-acre reservation. The EBCI has been exercising VAWA's restored jurisdiction since June of 2015, and has, to date, made twenty-five arrests with twelve convictions.[37]

Notably, of the nineteen Tribal Nations that have implemented VAWA, no fewer than fifteen define "Indian country" within their own tribal code to include the entirety of their "reservation" or the

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[34] *Id.* at 45.

[35] *Id.*

[36] *Id.*

[37] *See* NCAI, *supra* note 27, at 51.

entirety of their "territorial" boundary, consistent with a plain reading of 18 U.S.C. § 1151(a). That is, VAWA-implementing Tribes define the scope of their boundaries to include what § 1151 defines to include "all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation." 18 U.S.C. § 1151(a). And while no two VAWA-implementing Tribes maintain identical codes defining the scope of their jurisdiction, all view their boundaries as consistent with the status of a reservation as defined in § 1151(a)—the hallmark of "Indian country" that Congress utilized in VAWA § 904.

For example, the Tulalip Tribal Code states that "[t]he Tulalip Tribes hereby exercise[] 'special domestic violence criminal jurisdiction' as a 'participating tribe,' as defined within 25 U.S.C. 1304 (2013), subject to applicable exceptions defined therein, in the Tulalip Tribes Domestic Violence Court." Tulalip Tribal Code, Chapter 4.25, § 4.25.040. A "participating tribe" is "an Indian Tribe that elects to exercise special domestic violence criminal jurisdiction over the *Indian country* of that Indian tribe." 25 U.S.C. § 1304(a)(4) (emphasis added). The Tulalip Tribal Code then proceeds to define "Indian country" as "the definition given in 18 U.S.C. § 1151." Tulalip Tribal Code, Chapter 4.25, § 4.25.100.

The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation implemented VAWA's Special Domestic Violence Criminal Jurisdiction in Title 7 of the Fort Peck Tribes Comprehensive Code of Justice (Fort Peck CCJ), which states in pertinent part:

> The Fort Peck Tribal Court is vested with jurisdiction to enforce this section against any

> person who has committed an act of Dating Violence, Domestic Violence or Violation of a Protection Order against an Indian victim within the *Indian country* of the Assiniboine and Sioux Tribes provided the defendant has sufficient ties to the Fort Peck Tribes.

Fort Peck CCJ, Title 7, § 249(a) (emphasis added). Furthermore, the Fort Peck CCJ specifically defines "Indian country" to have "the meaning given the term in section 1151 of title 18, United States Code." *Id.* at § 249(b)(3).

Additionally, the Nottawaseppi Huron Band of Potawatomi ("NHBP") in Michigan does not specifically cite to 18 U.S.C. § 1151, however, the Tribe quotes the language within § 1151(a)-(c) to define the scope of "Indian country" pertaining to its VAWA implementation. *See* NHBP Code, Title 7, Chp. 7.4, § 7.4-8.

These examples reflect the variety of approaches Tribes have adopted to interpret VAWA § 904's use of "Indian country." If, however, Oklahoma's newfound arguments are incorporated into—or replace—this Court's *Solem* framework, the lands that legally constitute "Indian country" under VAWA § 904 will be thrown into question, placing the ability of Tribal Nations to exercise VAWA § 904's criminal jurisdiction over non-Indian domestic violence offenders in jeopardy.

Such an expansion of the jurisdictional hole left in *Oliphant*'s wake would directly undermine Congress's intent when it crafted the legal remedy embodied in VAWA § 904. *See, e.g.*, 159 Cong. Rec. E217-03, E218 (Feb. 28, 2013) (statement of Rep. Jackson Lee) ("The bill addresses a gaping jurisdictional hole by giving tribal courts concurrent jurisdiction over . . . defend-

ants who commit domestic violence offenses against an Indian in Indian country."); *see also* 159 Cong. Rec. H678-79 (daily ed. Feb. 27, 2013) (Rep. Tom Cole noting that VAWA 2013 was intended to restore "the jurisdictions of tribal courts over non-Indian offenders," as that is what Tribal Nations "need to keep their citizens protected from the scourge of domestic violence").

IV. Departure From The *Solem* Framework Would Undermine Congressional Certainty In Passing "Indian country" Legislation And Would Undermine The Ability Of Tribal Nations To Implement VAWA § 904.

To date, the *Solem* framework has provided a predictable test for Tribes implementing VAWA § 904 and for Congress, as Congress continues to pass legislation that relies on "Indian country" to include extant reservations that Congress has never formally disestablished.[38] Abandoning the *Solem* framework at this time, therefore, would undermine both Congress's exclusive authority regarding Indian affairs and tribal sovereignty. Ultimately, such abandonment of *Solem* would preclude Tribal Nations from fully effectuating

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[38] *See e.g.*, 6 U.S.C. § 601; 10 U.S.C. § 284; 15 U.S.C. § 375(7); 15 U.S.C. § 632; 15 U.S.C. § 1175; 15 U.S.C. § 1243; 15 U.S.C. § 1245; 16 U.S.C. § 3371; 16 U.S.C. § 3377; 18 U.S.C. § 1164; 18 U.S.C. § 1460; 18 U.S.C. § 1151; 18 U.S.C. § 1152; 18 U.S.C. § 1153; 18 U.S.C. § 1154; 18 U.S.C. § 1156; 18 U.S.C. § 3488; 18 U.S.C. § 3113; 18 U.S.C. § 2252; 18 U.S.C. § 2252A; 18 U.S.C. § 2265(e); 18 U.S.C. § 2266; 18 U.S.C. § 2346; 18 U.S.C. § 3242; 18 U.S.C. § 3559; 18 U.S.C. § 3598; 18 U.S.C. § 5032; 21 U.S.C. § 387; 25 U.S.C. § 1304; 25 U.S.C. § 1616e-1; 25 U.S.C. § 1684; 25 U.S.C. § 1903; 25 U.S.C. § 2801; 25 U.S.C. § 3202; 25 U.S.C. § 3653; 25 U.S.C. § 4302; 28 U.S.C. § 543; 28 U.S.C. § 1442; 28 U.S.C. § 1738B; 33 U.S.C. § 1377; 33 U.S.C. § 2269; 34 U.S.C. § 12291; 42 U.S.C. § 608; 42 U.S.C. § 654; 42 U.S.C. § 6945; 42 U.S.C. § 10101(19); 49 U.S.C. § 40128.

the congressional purpose behind VAWA 2013: ensuring safety for Native women.

A. The *Solem* Framework Fundamentally Recognizes The Very Congressional Authority That Forms The Foundation For The Restoration Of Tribal Sovereignty In VAWA 2013.

A departure from *Solem*, effectuated through a judicial declaration that the Creek Nation's Reservation has been disestablished, would undermine Congress's ability to effectively effectuate its exclusive authority over Indian affairs.

This Court has repeatedly, and consistently, affirmed its "respect both for tribal sovereignty [] and for the plenary authority of Congress" over Indian affairs. *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 18 (1987). That is, "Indian nations ha[ve] always been considered as distinct, independent political communities . . . ." *Talton v. Mayes*, 163 U.S. 376, 383 (1896) (citation and quotation marks omitted).

Despite a regrettable history of policies that sought to exterminate tribal governments and their citizens, Indian Nations have survived and remain both sovereign and distinct, a "separate people, with the power of regulating their internal and social relations. . . ." *United States v. Kagama*, 118 U.S. 375, 381–82 (1886). One of the attributes of sovereignty that Indian Nations maintain today is the "power to prescribe and enforce internal criminal laws." *United States v. Wheeler*, 435 U.S. 313, 326 (1978).

For instance, in *Lara*, this Court described the authority of Tribes to prosecute and punish individuals who commit crimes on tribal lands as "'inherent.'" *United States v. Lara*, 541 U.S. 193, 204 (2004)

(quoting *Wheeler*, 435 U.S. at 322–23). In discussing the historical context of tribal prosecutions, the *Wheeler* Court explained that "[b]efore the coming of the Europeans, the tribes were self-governing sovereign political communities. Like all sovereign bodies, they then had the inherent power to prescribe laws for their members and to punish infractions of those laws." *Wheeler*, 435 U.S. at 322-23 (internal citation omitted); *United States v. Lara*, 541 U.S. 193, 204 (2004) (affirming Tribal Nations' "authority to control events that occur upon the tribe's own land").

Nowhere is this recognized tribal "authority to control events that occur" on tribal lands more critical than in the realm of domestic violence crimes committed against Native women and children. And yet, if this Court accepts Oklahoma's invitation to depart from *Solem* and *Parker* in favor of a new judicially crafted diminishment analysis, the Creek Nation—and by extension many Tribal Nations—could lose a significant portion of the VAWA criminal jurisdiction that Congress restored. Oklahoma's arguments provide no discernible basis for this Court to abandon its well-established precedent honoring and upholding Congress's exclusive authority over Indian affairs and issues related to the establishment and disestablishment of reservations. *Solem*, 465 U.S. at 470 ("[O]nly Congress can divest a reservation of its land and diminish its boundaries.").

Congress's decision to restore tribal criminal jurisdiction over crimes committed in § 1151's "Indian country," therefore, constitutes a constitutional exercise of Congress's exclusive power over Indian affairs—one with which this Court should not interfere. *See Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2030 (2014) (The Court has "consistently described

[Congress's authority] as 'plenary and exclusive' to 'legislate [with] respect to Indian tribes.'") (quoting *Lara*, 541 U.S. at 200) (emphasis added).

Indeed, the Federal Government's "trust responsibility to assist tribal governments in safeguarding the lives of Indian women" compelled Congress to restore tribal criminal jurisdiction over non-Indian domestic violence offenders in "Indian country." Violence Against Women and Dep't of Justice Reauthorization Act of 2005 ("VAWA 2005"), Pub. L. No. 109–162, § 901(6), 119 Stat. 3078. Congress's considered judgment in this execution of the federal government's trust responsibility should not be disturbed. *See United States v. Jicarilla Apache Nation*, 131 S. Ct. 2313, 2323 (2011).

B. Judicial Determinations That Certain Reservations Have Been Disestablished Would Jeopardize Tribal Sovereignty And Safety For Native Women.

> *On October 25th, 2008, I was beaten and choked. I remember this date because it was three hours before a tribal council meeting. I attended that council meeting with finger and handprints on my neck from being choked. At the council meeting I kept my head down with my hair pulled forward to try and keep the marks from being seen. It was at that point that I realized the violence didn't just threaten me and my children; it threatened my ability to lead my Nation. No woman should be forced to lead a government that has been stripped of the jurisdiction necessary to protect her people.*

Former Councilwoman Cherrah Giles, Muscogee (Creek) Nation, current President, NIWRC Board of Directors.[39]

When a Tribal Nation cannot protect its women, the entire nation is placed in jeopardy. Women perpetuate the existence of all tribal communities, as they give life to the nation's future citizens and contribute significantly to the nation's self-government, often holding critical leadership positions in many tribal governments. Political integrity is contingent upon the provision of protection for members of the body politic, and consequently, a Tribal Nation cannot maintain its integrity when perpetrators are allowed to escape accountability for the harm they have caused to the community.

Congress recognized the connection between preserving the safety of a woman in her own home and the sovereignty of her Nation, as Senator Mazie K. Hirono of Hawaii stated: "Every citizen of this Nation deserves the safety and security that comes with a peaceful home and safe relationship." 159 Cong. Rec. S504 (daily ed. Feb. 7, 2013) (statement of Sen. Hirono). And as Senator Patrick Leahy of Vermont noted, "[n]o one should be able to get away with domestic violence and rape, not in any community, and not because the victim is a Native American victim in *Indian country*." 159 Cong. Rec. S480 (daily ed. Feb. 7, 2013) (statement of Sen. Leahy) (emphasis added).

As explained above, Congress rendered the restoration of criminal jurisdiction in VAWA contingent upon the location of where the crime is committed, and

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[39] Interview with Cherrah Giles, President, NIWRC Board of Directors, citizen of the Muscogee (Creek) Nation (November 2015).

defined this location to be § 1151's "Indian country." If Nations whose reservations have never been formally disestablished are suddenly excluded from this category, however, they will be left with no restored criminal jurisdiction over domestic violence crimes unless they can establish, beyond a reasonable doubt, that the domestic violence crime they seek to prosecute took place on lands that are held in trust or are in restricted status. Arresting perpetrators and prosecuting domestic violence crimes is already challenging enough, as these cases often involve complex, repetitive fact patterns of actions, violence, and manipulative communications that take place in a myriad of ways and in a myriad of places.[40]

Congress passed VAWA 2013 to address the crisis resulting from a jurisdictional loophole. Any abandonment of the *Solem* framework would place the certainty of "Indian country" in jeopardy, and ultimately, would further expand a loophole that Congress has only sought to fix.

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[40] *See, e.g.*, Alafair S. Burke, *Domestic Violence as a Crime of Pattern and Intent: An Alternative Reconceptualization*, 75 Geo. Wash. L. Rev. 552, 569 (2007); *see also* Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* 5 (2007) (articulating the "coercive control" theory of domestic violence, which frames "woman battering . . . as a course of calculated, malevolent conduct deployed almost exclusively by men to dominate individual women by interweaving repeated physical abuse with three equally important tactics: intimidation, isolation, and control").

CONCLUSION

If the Creek Nation's Reservation is to be disestablished, it is a task for Congress, and not this Court. The *Solem* framework should not be discarded. The decision of the Tenth Circuit Court of Appeals should be affirmed.

Respectfully submitted,

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September 26, 2018

APPENDIX

APPENDIX

STATEMENTS OF *AMICI CURIAE*

The following organizations respectfully submit this brief as *amici curiae* in support of Respondent.

American Indians Against Abuse ("AIAA") is a Wisconsin nonprofit organization incorporated in 1991 (www. aiaawi.org). AAIA is a statewide sexual assault and domestic violence tribal coalition serving Wisconsin's eleven Tribes and member programs by providing education, support, and technical assistance to enhance and strengthen the response to victims of domestic violence, sexual assault, dating violence, and stalking. AIAA's trainings, community awareness, and collaborative events are designed to be reflective of and have relevance to our local, regional, and nationwide indigenous people and culture.

The **Arizona Coalition To End Sexual and Domestic Violence** ("ACESDV") is an Arizona nonprofit organization incorporated in 1980 (www.ace sdv.org). The mission of ACESDV is to end sexual and domestic violence in Arizona by dismantling oppression and promoting equity among all people. ACESDV does this through training and technical assistance, public policy advocacy and systems reforms, direct victim services advocacy, and public awareness and prevention activities.

The **Battered Women's Justice Project** ("BWJP") is a Minnesota nonprofit organization incorporated in 2013 (www.bwjp.org). BWJP is a national technical assistance center that provides training and resources for advocates, battered women, legal system personnel, policymakers, and others engaged in the justice system response to intimate partner violence ("IPV"). The BWJP promotes systemic change within the civil

and criminal justice systems to ensure an effective and just response to victims and perpetrators of IPV, and the children exposed to this violence. The BWJP is an affiliated member of the Domestic Violence Resource Network, a group of national resource centers funded by the Department of Health and Human Services and other support since 1993. The BWJP also serves as a designated technical assistance provider for the Office on Violence Against Women of the U.S. Department of Justice. In an effort to promote safer and just results for women and their children, the BWJP works at state, national and international levels to engage court systems in methods of accurately assessing the effects of IPV on women and children and to fashion safe outcomes that hold batterers accountable.

The **Colorado Coalition Against Sexual Assault** ("CCASA") is a Colorado nonprofit organization incorporated in 1984 (www.ccasa.org). CCASA's mission is to promote safety, justice, and healing for survivors while working toward the elimination of sexual violence. As a statewide coalition, CCASA supports its members, partners, and the broader community through technical assistance, training, information and referrals, educational materials, statewide systems change, and public policy education and advocacy.

Community Against Violence ("CAV") is a New Mexico nonprofit organization formed in 1978 and incorporated in 1980 (www.taoscav.org). CAV serves north central New Mexico, providing prevention programs and direct services to survivors of sexual/domestic violence, child abuse, stalking, and dating violence. Its mission is to foster and support a community free of all forms of sexual and domestic violence. CAV offers a 24-Hour Crisis Hotline for survivors of domestic and sexual violence, legal and

medical advocacy services, emergency shelter and housing assistance, counseling and support groups, children's programs, and community prevention and outreach programs.

End Domestic Abuse Wisconsin is a Wisconsin nonprofit organization incorporated in 1978 (www.endabusewi.org). End Domestic Abuse Wisconsin is a statewide coalition comprised of attorneys, social policy advocates, and experts working to advocate for social and policy change to end domestic abuse.

Faith Action Network ("FAN") is a Washington nonprofit organization incorporated in 1975 (www.fanwa.org). FAN is an interfaith advocacy organization that educates, organizes, and mobilizes people of all faith traditions to take action on the critical social issues of our day. FAN partners with thousands of people and more than 140 faith communities across Washington to promote the common good. They work with other faith leaders to facilitate the Interfaith Network for Indigenous Communities, with special concern for issues of sovereignty and well-being of the 29 federally recognized Tribes as well as non-recognized Tribes in Washington State. Together they seek to build a more just, peaceful, and sustainable world.

The **Family Violence Appellate Project** ("FVAP") is a California nonprofit organization incorporated in 2012 (www.fvaplaw.org). FVAP is a nonprofit organization dedicated to working through the appellate legal system to ensure the safety and well-being of domestic violence survivors and their children. FVAP provides legal assistance to domestic violence survivors at the appellate level through direct representation, collaborates with pro bono attorneys, offers training for legal services providers and domestic violence advocates, and advocates for domestic violence

survivors on important legal issues. FVAP's work contributes to a growing body of case law that provides the safeguards necessary for survivors of domestic violence and their children to obtain relief from abuse through the courts.

The **First Nations Women's Alliance** ("FNWA") is a North Dakota nonprofit organization incorporated in 2008 (www.nativewoman.org). FNWA's mission is to strengthen tribal communities by creating a forum for leaders to come together to address the issues of domestic violence and sexual assault. FNWA is committed to ending all forms of violence by providing culturally relevant services and resources and facilitating the provision of those services by others in tribal communities.

The **Florida Council Against Sexual Violence** ("FCASV") is a Florida nonprofit organization incorporated in 1986 (www.fcasv.org). FCASV is a statewide organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them. FCASV serves as a resource to the state on sexual violence issues. FCASV hosts a biennial statewide conference and offers many trainings, which bring state-of-the-art information from around the nation to Florida. We provide technical assistance to agencies seeking to improve their services for rape victims, and we provide up-to-date information to the public. By using FCASV's toll free information line, callers can access information from FCASV's resource library or from FCASV's network of national resources. FCASV provides information, assistance and leadership on all aspects of sexual violence, including rape, child abuse, stalking and sexual harassment.

The **Georgia Coalition Against Domestic Violence** ("GCADV") is a Georgia nonprofit organ-

ization incorporated in 1992 (www.gcadv.org). GCADV's mission is to collaborate, advocate, educate, and empower. GCADV envisions a Georgia free of domestic violence. GCADV empowers survivors and the programs that serve them. GCADV educates the public and advocates for responsive public policy. Our strength is in numbers, as GCADV collaborates throughout Georgia to stop domestic violence.

The **Idaho Coalition Against Sexual & Domestic Violence** ("Idaho Coalition") is an Idaho nonprofit organization incorporated in 1980 (www.engagingvoices.org). The Idaho Coalition focuses on gender violence inextricably connected to multiple systemic oppression. The Coalition's vision is to create a world where everyone is valued, everyone is safe, and everyone can thrive. The Coalition's work is to build the capacity of programs, organizations, and systems through learning communities to provide safe, compassionate, trauma-informed, inclusive and accessible services to adolescents and adults and their children exposed to violence and to increase offender accountability.

The **Illinois Coalition Against Domestic Violence** ("ICADV") is an Illinois nonprofit organization incorporated 1978 (www.ilcadv.org). ICADV is a membership organization comprised of local nonprofits that respond to domestic violence victims and their dependents. The organization envisions a statewide community committed to exposing the root causes of domestic abuse and ensuring safety for families by supporting the voices of all survivors. ICADV builds networks of support for and with survivors, and advances statewide policies and practices that transform societal attitudes and institutions to eliminate and prevent domestic abuse.

The **Indian Law Resource Center** ("Center") is a Montana foreign nonprofit legal and advocacy organization first incorporated in 1978 in the District of Columbia (www.indianlaw.org). The Indian Law Resource Center provides assistance to Indian and Alaska Native Nations and other indigenous peoples throughout the Americas who are working to protect their lands, resources, environment, cultural heritage, and human rights. The Center's principal goal is the preservation and well-being of Indians and other Native Nations and Tribes. The Center's Safe Women, Strong Nations project works to end the extreme levels of violence against Indian and Alaska Native women and children and its devastating impacts on Native communities by raising awareness of this issue nationally and internationally, by strengthening the capacity of Indian and Alaska Native Nations and Native women to prevent violence and restore safety to Native women, and by assisting national Native women's organizations and Indian and Alaska Native Nations to restore tribal criminal authority and preserve civil jurisdiction.

Integrated Concepts, Inc. ("ICI") is an Oklahoma corporation incorporated in 2008 (www.iconceptsinc.com). The impetus for ICI was the pervasive need for improved communication and collaboration between not-for-profits, educational institutions, governmental agencies, and business entities. To meet the ever-changing needs of our clients, the ICI team is proficient in a range of facilitation methods and understands problem solving and decision-making models. A thorough understanding of a variety of group methods and techniques and the consequences of misuse of group methods aid ICI in guiding collaborations through complex issues and result in successful projects.

The **Iowa Coalition Against Sexual Assault** ("IowaCASA") is an Iowa nonprofit organization incorporated in 1981 (www.iowacasa.org). IowaCASA is a statewide organization whose mission includes ending all forms of sexual violence and improving the services and responses available to those who have experienced sexual violence. IowaCASA provides a bridge between advocates at sexual assault service programs, statewide policy makers, and federal responses to sexual violence and violence against women. Advocates are trained professionals whose job it is to support those who have experienced sexual violence.

Jane Doe Inc. ("JDI"), also known as the Massachusetts Coalition Against Sexual Assault and Domestic Violence, is a Massachusetts nonprofit organization incorporated in 1998 (www.janedoe.org). JDI is a statewide organization of fifty-six member programs that provide direct services to victims and survivors of sexual and domestic violence. Guided by the voices of survivors, JDI brings together organizations and people committed to ending sexual and domestic violence, creating social change by addressing the root causes of this violence, and promoting justice, safety and healing for survivors. JDI advocates for responsible public policy, promotes collaboration, raises public awareness, and supports its member organizations to provide comprehensive prevention and intervention services.

The **Kansas Coalition Against Sexual and Domestic Violence** ("KCSDV") is a Kansas nonprofit organization incorporated in 1982 (www.kcsdv.org). KCSDV works to increase safety, accountability, and justice while ending sexual and domestic violence in Kansas. The organization is a state-level advocacy voice for survivors and a collaborative network of

programs promoting safe homes, safe streets, and safe communities.

The **La Jolla Band of Luiseño Indians Avellaka Program** ("Avellaka") is a La Jolla Band tribal program created in 2010 with funding from the United States Department of Justice (www.lajollaindians.com). Avellaka's mission is to uphold the La Jolla Tribe's authority as a sovereign Indian nation to protect its women citizens and create the laws, policies, protocols, and advocacy services to address violence against Native women.

The **Maine Coalition Against Sexual Assault** ("MECASA") is a nonprofit organization founded in 1991 (www.mecasa.org). MECASA is organized to end sexual violence in Maine and to support high quality sexual violence prevention and response within Maine communities. MECASA works toward ending sexual violence by initiating and advocating for victim-centered public policy; providing expert training, technical assistance, and resources for providers and partners; funding sexual assault service providers; and informing conversations about sexual violence.

The **Maine Coalition To End Domestic Violence** ("MCEDV") is a nonprofit organization incorporated in Maine in 1977 (www.mcedv.org). MCEDV mobilizes collaborative community action with and on behalf of a statewide network of Domestic Violence Resource Centers to ensure that all people affected by domestic abuse and violence in Maine are restored to safety and that perpetrators are held accountable. MCEDV builds partnerships that promote public policy, education, and systems advocacy to create and encourage a social, political, and economic environment that fosters communities where the diversity, dignity, and

contributions of all are respected and celebrated, and domestic abuse and violence no longer exist.

The **Minnesota Indian Women's Sexual Assault Coalition** ("MIWSAC") is a Minnesota nonprofit tribal coalition and National Tribal Training and Technical Assistance Provider formed in 2001 and incorporated in 2004 (www.miwsac.org). MIWSAC provides training, public awareness, and resources to address sexual violence and sex trafficking. MIWSAC's vision is: Creating Safety and Justice Through the Teachings of Our Grandmothers.

Monsoon Asians & Pacific Islanders in Solidarity ("Monsoon") is an Iowa nonprofit organization incorporated in 2007 (www.monsooniowa.org). Monsoon is a community based organization with a mission to end gender-based violence in the Asian & Pacific Islander communities in Iowa through direct services and violence prevention using community organizing and education. Monsoon was established as a program under the Iowa Coalition Against Sexual Assault in 2003 and separated as a nonprofit in 2007.

The **Montana Coalition Against Domestic & Sexual Violence** ("MCADSV") is a Montana nonprofit organization incorporated in 1986 (www.mcadsv.com). MCADSV is a statewide coalition of individuals and organizations working together to end domestic and sexual violence through advocacy, public education, public policy, and program development. MCADSV's mission is to support and facilitate networking among MCADSV's member organizations while advocating for social change in Montana. Currently, MCADSV represents over 50 programs across Montana that provide direct services to victims and survivors of domestic and sexual violence and their children. In addition, MCADSV's membership includes other

nonprofit and government organizations and individuals (professionals and members of the general public) who are interested in addressing domestic and sexual violence in a way that holds offenders accountable and provides support for the people they victimize.

The **Morning Star Institute** is a national, nonprofit Native rights organization founded in 1984 and incorporated in Washington, D.C. Morning Star is a leader in the development of the Native Peoples' cultural rights agenda, from the protection and repatriation of sacred places, ancestors, sacred objects, cultural patrimony, ceremonies and ceremonial grounds, to the promotion of human rights, including highlighting positive imagery and the esteemed position of Native women and children in Native cultural history, symbology and languages. Morning Star promotes the need for federal entities to protect tribal rights through treaties, existing law and the United Nations Declaration on the Rights of Indigenous Peoples. Morning Star has helped many Native Peoples to regain, co-manage or jointly steward Native sacred places, including lands and waters and their cultural and historical aspects, or otherwise protect sacred places from invasive or unwanted development, damage or any desecration. Since 2003, Morning Star also has sponsored and organized the annual and ongoing National Days of Prayer to Protect Sacred Places.

The **National Alliance to End Sexual Violence** ("NAESV") is a Washington, D.C. nonprofit incorporated in 2001 (www.endsexualviolence.org). NAESV is the voice in Washington for state coalitions and local organizations working to support survivors and end sexual violence. The rape crisis centers in NAESV's network see every day the widespread and devastating

impacts of sexual assault upon survivors including those in tribal communities. We oppose any impediments to survivors receiving justice.

The **National Clearinghouse for the Defense of Battered Women** ("NCDBW") is a Pennsylvania nonprofit organization incorporated in 1987 (www.ncdbw.org). The mission of the National Clearinghouse for the Defense of Battered Women is to secure justice for victims of battering charged with crimes related to their battering and prevent further victimization of such people who have been arrested, convicted, or incarcerated. NCDBW continues to work for justice for victims of battering charged with crimes where a history of abuse is relevant to their legal claim or defense.

The **National Coalition Against Domestic Violence** ("NCADV") is a foreign nonprofit corporation founded in 1978 and incorporated in Colorado in 1992 (www.ncadv.org). It strives to foster a society in which there is zero tolerance for domestic violence by influencing public policy, increasing public awareness of the impact of domestic violence, and providing programs and education that drive that change.

The **National Organization for Women Foundation** ("NOW Foundation") is a Washington, D.C. nonprofit organization incorporated in 1986 (www.nowfoundation.org). The NOW Foundation is a 501(c)(3) organization devoted to furthering women's rights through education and litigation. The organization is affiliated with the National Organization for Women, the largest feminist grassroots activist organization in the United States, with hundreds of thousands of members and contributing supporters in hundreds of chapters in all 50 states and the District of Columbia.

The **National Urban Indian Family Coalition** ("NUIFC") is a Washington nonprofit organization formed in 2013 and incorporated in 2017 as a public charity (www.nuifc.org). NUIFC is a coalition of 28 urban Indian organizations in 20 states representing over 1.5 million American Indians and Alaska Natives residing in America's metropolitan areas. The purpose of the NUIFC is to provide information, advocacy and resources to urban Indian organizations nationally.

The **Native Alliance Against Violence** ("NAAV") is an Oklahoma nonprofit organization incorporated in 2009 (www.oknaav.org). Through the spirit of respect and cooperation, the NAAV will strive to unify tribal service programs throughout Oklahoma by providing culturally appropriate technical assistance, as well as training and support to eliminate domestic violence, sexual assault, stalking and dating violence. The NAAV strives to restore balance and safety for tribal communities. The NAAV is committed to increasing awareness of sexual assault, domestic violence, dating violence, stalking and human trafficking committed against Native women; enhancing the response to violence against Native women at the tribal, federal, and state levels; and identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Native women victimized by sexual assault, domestic violence, dating violence, and stalking.

The **Native Women's Society of the Great Plains** ("Coalition") is a South Dakota nonprofit organization incorporated in 2008 (www.nativewomenssociety.org). The Coalition's mission is to promote the safety of Native women. The Coalition is comprised of organizations that provide shelter and services to Native women experiencing violence in their homelands.

New Hope, Inc. ("New Hope") is a Massachusetts nonprofit organization incorporated in 1979 (www.new-hope.org). New Hope's mission is to create communities free from violence and exploitation through prevention education and community collaborations. New Hope also provides services to victims and survivors, including a 24-hour confidential hotline, an emergency family shelter, counseling, legal services, housing assistance, and supervised visitation programs.

The **New Mexico Coalition Against Domestic Violence** ("NMCADV") is a New Mexico nonprofit organization established in 1979 and incorporated in 1981 (www.nmcadv.org). NMCADV has been working to achieve a coordinated local, regional, and statewide response to domestic violence. Coalition members, allies, and supporters are committed to ending domestic violence in New Mexico. The NMCADV provides support services for its member affiliates across the state and referral services for domestic violence survivors.

The **New Mexico Coalition of Sexual Assault Programs, Inc.** is a New Mexico nonprofit organization incorporated in 1984 (www.nmcsap.org). The purpose of the New Mexico Coalition of Sexual Assault Programs, Inc., is to prevent and reduce sexual violence in every area of New Mexico (Indigenous communities, NM/Mexico border areas, rural, frontier, urban) through training, policy, anti-oppression initiatives and funding; to establish evidenced based, trauma informed services to survivors and offenders of sexual violence throughout the state; and to increase the level of expertise among service providers of all disciplines regarding their response to sexual violence. These communities continue to be the top priority for

our services and funds. Social justice in every form informs our mission, goal and activities.

The **New York State Coalition Against Domestic Violence** ("NYSCADV") is a New York nonprofit organization incorporated in 1978 (www.nyscadv.org). NYSCADV works to create and support the social change necessary to prevent and confront all forms of domestic violence. NYSCADV provides training, support, technical assistance and advocacy to local direct service domestic violence programs across New York State. As a statewide membership organization, we achieve our mission through activism, training, prevention, technical assistance, legislative advocacy, and leadership development. We promote best practices and broad-based collaboration integrating anti-oppression principles in all our work.

The **New York State Coalition Against Sexual Assault** ("NYSCASA") is a nonprofit coalition of community-based rape crisis programs located throughout New York State organized in 1987 (www.nys casa.org). NYSCASA strengthens responsive services for sexual assault survivors by advocating for/against policies and practices; providing training, consultation, and resources; supporting rape crisis programs with some pass-through funding; and collaborating with a wide variety of colleagues, professionals, and stakeholders.

The **North Carolina Coalition Against Sexual Assault** ("NCCASA") is a North Carolina nonprofit organization incorporated in 1988 (www.nccasa. org). NCCASA is a statewide alliance working to end sexual violence by providing information, referrals, and resources to individuals, rape crisis programs, and other organizations; training rape crisis advocates and allied professionals; promoting awareness through

education and media campaigns; educating North Carolina legislators; coordinating Sexual Assault Response Teams ("SART") across the state; and assisting colleges and universities in their efforts to address sexual assault through the NCCASA campus consortium.

The **Ohio Domestic Violence Network** ("ODVN") is an Ohio nonprofit organization incorporated in 1988 (www.odvn.org). ODVN is a statewide domestic violence coalition providing training and support to local member programs and promoting positive public policy for domestic violence survivors.

The **Oklahoma Coalition for Reproductive Justice** ("OCRJ"), founded as a 501(c)4 in 2010, is a statewide grassroots coalition of organizations and individuals focusing on the advancement of reproductive health, rights and justice in Oklahoma (www.ocrj.org). OCRJ pursues its mission through legislative advocacy, community outreach and education, and litigation. In pursuing reproductive justice in the state, it is imperative for us to acknowledge that we are on stolen land and that we stand behind and support Indigenous Peoples in their pursuit of respect, justice, equity, inclusion, and recognition.

Oklahoma Indian Legal Services, Inc. ("OILS") is an Oklahoma nonprofit legal aid organization first incorporated in 1981 (www.oilsonline.org). OILS is a statewide organization providing free legal representation to low-income Tribal members living in Oklahoma. The attorneys at OILS provide direct representation in cases that are connected to a person's status as a member of an Indian Tribe. These cases involve the Indian Child Welfare Act, probates for restricted Indian lands, wills for elderly Tribal members who own trust or restricted Indian land,

Tribal housing issues, Tribal sovereignty issues, Tribal court representation and individual rights. Much of OILS' work includes protecting women who are survivors of domestic violence and protecting the interests of minor Tribal children in deprived actions and guardianships where the children have witnessed domestic violence or are survivors of child abuse.

The **Oregon Coalition Against Domestic & Sexual Violence** ("OCADSV") is an Oregon non-profit organization incorporated in 1978 (www.ocadsv.org). The OCADSV's efforts have been directed toward providing technical assistance, training and public education to local crisis centers and communities; engaging in systems advocacy; and supporting multi-disciplinary efforts to develop effective agency protocols. These activities promote the awareness of sexual assault and domestic violence, enhance systemic responses to victims and their families, and support innovative approaches to ending domestic and sexual violence.

The **Osage Nation Family Violence Prevention Department** ("ONFVPD") is an Osage Nation nonprofit organization founded in 2000 (https://www.osagenation-nsn.gov/what-we-do/counseling-center/domestic-violence). ONFVPD's mission is to empower those seeking ONFVPD's services with the tools they need to rebuild their lives and become the strong individuals they were created to be; to effect social change through outreach and education in order to put an end to intergenerational violence; and to partner with state, county, and tribal court systems and law enforcement to hold perpetrators accountable for their crimes.

The **P&S Legal Advocacy, PLLC** ("P&S") is an Oklahoma professional limited liability company incorporated in 2009 (www. pslegalok.com). Since their founding, P&S Legal Advocacy has endeavored to become one of the best small law firms in Oklahoma, both in the courtroom and in the local community. Their wide-ranging areas of practice and size allow the firm to handle the needs of start-ups, large companies, and nonprofits as well as individuals while maintaining a close client relationship and personalized attention. With experience in many practice areas, P&S Legal Advocacy goes beyond providing comprehensive legal services. The attorneys devote the time to learn the nuances and drivers of our clients' businesses nonprofit, agency and personal needs.

The **Seven Dancers Coalition** ("Coalition") is a New York nonprofit organization incorporated in 2009 (www. sevendancerscoalition.com). The Coalition is located in upstate New York, and thus the Coalition's territory straddles the United States and Canadian border. The Coalition is established to bring awareness and prevention on Sexual Assault, Domestic Abuse, Campus Safety, Teen Dating, Stalking and Sex Trafficking. The Coalition's mission is to uplift families of indigenous communities by educating and restoring traditional values with the purpose of strengthening self-confidence and dignity. The Coalition strives for an environment of peace and tranquility in order to heal the damaged spirit.

Survivor Outreach Services is a Little Traverse Bay Bands of Odawa Indians nonprofit organization incorporated in 2012 (www.ltbbodawansn.gov). Little Traverse Bay Bands of Odawa Indians Survivor Outreach Services is designed to assist Native American and non-Native intimate partners who

have/are experiencing domestic violence, sexual assault, stalking, and dating violence.

The **Tewa Women United** ("TWU") is a New Mexico nonprofit organization incorporated in 2001 (www.tewawomenunited.org). TWU believes in strengthening and re-strengthening beloved families and communities to end violence against women, girls and Mother Earth.

The **Tribal Law and Policy Institute** ("TLPI") is a California nonprofit organization incorporated in 1996 (www.TLPI.org). TLPI is organized to design and deliver education, research, training, and technical assistance programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples. Our mission is to enhance and strengthen tribal sovereignty and justice while honoring community values, protecting rights, and promoting well-being. We strive to help create and support institutions and systems that work toward improving the welfare of Native communities, including future generations, to support tribal sovereignty and autonomy, and to facilitate the empowerment of all Native individuals and communities that have suffered from abuse or abusive historical practices and policies.

The **Vermont Network Against Domestic and Sexual Violence** ("Vermont Network") is a Vermont nonprofit formed in 1986 and incorporated in 1988 (www.vtnetwork.org). The Vermont Network represents its member organizations, which are comprised of local domestic and sexual violence agencies. The Vermont Network supports member organizations and their work with survivors of domestic and sexual violence through policy change, training and technical assistance and large scale social change efforts.

Violence Free Colorado ("Violence Free") is a Colorado nonprofit organization incorporated in 1977 (www.violencefreecolorado.org). Violence Free works with hundreds of organizations and individuals in local communities across the state to prevent and end relationship violence, and support those affected by relationship abuse. They build the capacity of a diverse network of domestic violence and other community-based programs across Colorado to help them effectively assist survivors of relationship violence and their families. Their goal is to improve individual and community health and well-being through statewide visionary advocacy and social change efforts, supporting their members, and informing the public.

The **Virginia Sexual and Domestic Violence Action Alliance** ("Action Alliance") is a Virginia nonprofit organization formed in 1981 (www.vsdvalliance.org). The Action Alliance is a diverse group of individuals and organizations committed to ending sexual and intimate partner violence through community advocacy, offering individual resources, and building diverse alliances across the state.

The **Visioning B.E.A.R. Circle Intertribal Coalition** ("VBCIC") is a Massachusetts nonprofit coalition incorporated in 2014 (www.visioningbear.org). The mission of VBCIC is to prevent domestic and sexual violence in the intertribal communities of the Northeast, which includes Massachusetts, New Hampshire, Vermont, Maine, Connecticut, Rhode Island, and New York. VBCIC provides prevention education, training and technical assistance to all indigenous communities in the Northeast who wish to eliminate interpersonal violence in their tribal and intertribal communities.

The **Wabanaki Women's Coalition** ("WWC") is a Maine nonprofit organization incorporated in 2013 (www.wabanakiwomenscoalition.org). The mission of the WWC is to increase the capacity of tribal communities to respond to domestic and sexual violence and influence tribal, national and regional systems to increase awareness, safety, justice, and healing for all our relations. The WWC's vision is to guide the evolution of systems and policies that reflect our Wabanaki voice on behalf of survivors of domestic and sexual violence; create a technical resource center that affirms Wabanaki cultural values and tribal sovereignty, and empowers tribal service providers to serve, educate and influence their communities in an effective and uniform way; and be recognized as the informed resource for issues on Wabanaki survivors of domestic and sexual violence.

The **Washington Coalition of Sexual Assault Programs** ("WCSAP") is a Washington nonprofit organization formed in 1979 and incorporated in 1980 (www.wcsap.org). WCSAP is a statewide non-profit coalition of agencies engaged in the elimination of sexual violence through education, advocacy, victim services, and social change. WCSAP provides information, training, and expertise to program and individual members who support victims, family and friends, the general public, and all those whose lives have been affected by sexual assault.

The **Washington State Coalition Against Domestic Violence** ("WSCADV") is a Washington nonprofit organization incorporated in 1990 (www.wscadv.org). WSCADV works to improve how communities respond to domestic violence and works to create a social intolerance for abuse by mobilizing member

programs and allies to end domestic violence through advocacy and action for social change.

The **Washington State Native American Coalition Against Domestic Violence and Sexual Assault**, also known as the Women Spirit Coalition ("WSC"), is a private, nonprofit 501(c)(3) charitable organization that was founded in 2002 and is located in the Olympia, WA capital area. WSC is one of 18 Tribal Coalitions nationwide providing a voice for Native women, their families, and communities suffering from epidemic rates of sexual assault, domestic violence, dating violence, stalking, and sex trafficking. WSC is founded, organized, and staffed by Native women. WSC serves 29 Tribes in Washington State. We offer technical assistance, consultation, and training. We provide assistance with program development, proposal review, culturally-based violence prevention and intervention practices, and models of advocacy specific to tribal communities. WSC also provides training on a national level. We serve Indian Tribes in Washington State as a technical assistance provider, trainer and consultant on all matters related to domestic violence, sexual assault, stalking, strangulation, dating violence and sex trafficking.

Wica Agli is a South Dakota nonprofit organization incorporated in 2013 (www.wicaagli.org). Our mission is to reclaim traditional understandings of masculinity and share them with the men and boys in the communities Wica Agli serves. Wica Agli strives to help men value their families and communities above all other things. In sharing the cultural traditions left to men, men can again begin to create communities free of domestic and sexual violence.

Wiconi Wawokiya, Inc. ("Wiconi Wawokiya") is a South Dakota nonprofit organization incorporated in 1982 (www.wiconiwawokiya.org). Wiconi Wawokiya's mission and purpose is to help victims of domestic violence, sexual assault, elder abuse, child abuse and all forms of human trafficking. They do so by providing education and awareness programs to Native communities in order to end all forms of violence.

The **Wisconsin Coalition Against Sexual Assault** ("WCASA") is a Wisconsin nonprofit organization incorporated in 1985 (www.wcasa.org). WCASA is a statewide member organization composed for sexual assault programs, sexual assault survivors and individuals and agencies promoting the social change necessary to end sexual assault. WCASA provides training and technical assistance to 56 sexual assault victim advocacy organizations throughout the State of Wisconsin and other agencies that work directly with victims for sexual assault.

The **Wyoming Coalition Against Domestic Violence and Sexual Assault** ("WCADVSA") is a Wyoming nonprofit incorporated in 1987 (www.wyomingdvsa.org). The WCADVSA is comprised of professionals experienced in providing direct services to victims and survivors, developing primary prevention initiatives, representing victims, training medical and criminal justice professionals, developing curricula, and influencing public policy. The work of the WCADVSA centers around social justice and grassroots efforts, the analysis of the oppression of women and other disenfranchised groups, the values of peer support and policy change, and improving state and national laws.